

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Ruth Y. Goldway, Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Robert G. Taub

Hope Post Office
Hope, Minnesota

Docket No. A2012-105

ORDER AFFIRMING DETERMINATION

(Issued April 12, 2012)

I. INTRODUCTION

On December 15, 2011, the Postal Service advised the Commission that it “will delay the closing or consolidation of any Post Office until May 15, 2012.”¹ The Postal Service further indicated that it “will proceed with the discontinuance process for any Post Office in which a Final Determination was already posted as of December 12, 2011, including all pending appeals.” *Id.* It stated that the only “Post Offices” subject to closing prior to May 16, 2012 are those that were not in operation on, and for which a Final Determination was posted as of, December 12, 2011. *Id.* It affirmed that it “will not close or consolidate any other Post Office prior to May 16, 2012.” *Id.* at 2. Lastly,

¹ United States Postal Service Notice of Status of the Moratorium on Post Office Discontinuance Actions, December 15, 2011, at 1 (Notice).

the Postal Service requested the Commission “to continue adjudicating appeals as provided in the 120-day decisional schedule for each proceeding.” *Id.*

The Postal Service’s Notice outlines the parameters of its newly announced discontinuance policy. Pursuant to the Postal Service’s request, the Commission will fulfill its appellate responsibilities under 39 U.S.C. § 404(d)(5).

On December 28, 2011, Ed Nelson (Petitioner Nelson) and Marcia Dahle (Petitioner Dahle) filed petitions with the Commission seeking review of the Postal Service’s Final Determination to close the Hope, Minnesota post office (Hope post office).² Additional petitions for review were received from Dale E. Wilka (Petitioner Wilka), Kurt Miller (Petitioner Miller), James Krause (Petitioner J. Krause) and Doris Krause (Petitioner D. Krause).³ The Final Determination to close the Hope post office is affirmed.⁴

II. PROCEDURAL HISTORY

On January 6, 2012, the Commission established Docket No. A2012-105 to consider the appeal, designated a Public Representative, and directed the Postal Service to file its Administrative Record and any responsive pleadings.⁵

² Petition for Review received from Ed Nelson regarding the Hope, Minnesota post office 56046, December 28, 2011 (Nelson Petition); Petition for Review received from Marcia Dahle regarding the Hope, Minnesota post office 56046, December 28, 2011 (Dahle Petition).

³ Petition for Review received from Dale E. Wilka regarding the Hope, Minnesota post office 56046, January 6, 2012 (Wilka Petition); Petition for Review received from Kurt Miller regarding the Hope, Minnesota post office 56046, January 6, 2012 (Miller Petition); Letter received from James Krause regarding the Hope, Minnesota post office 56046, January 20, 2012 (Krause Letter); Petition for Review received from Doris Krause regarding the Hope, Minnesota post office 56046, January 20, 2012 (D. Krause Petition).

⁴ The Commission is divided equally, 2-2, on the outcome of this appeal. In the absence of a majority, the Final Determination stands.

⁵ Order No. 1110, Notice and Order Accepting Appeal and Establishing Procedural Schedule, January 6, 2012.

On January 12, 2012, the Postal Service filed the Administrative Record with the Commission.⁶ The Postal Service also filed comments requesting that the Commission affirm its Final Determination.⁷

Petitioners Nelson and D. Krause filed participant statements supporting their Petitions.⁸ On March 6, 2012, the Public Representative filed a reply brief.⁹

III. BACKGROUND

The Hope post office provides retail postal services and service to 62 post office box customers. Final Determination at 2. No delivery customers are served through this office. The Hope post office, an EAS-55 level facility, provides retail service from 9:30 a.m. to 12:30 p.m., and 1:00 p.m. to 4:00 p.m., Monday through Friday, and 9:00 a.m. to 11:00 a.m. on Saturday. Lobby access hours are 7:00 a.m. to 5:00 p.m. Monday through Saturday. *Id.* See also Administrative Record, Item No. 15.

The postmaster position became vacant on November 1, 1996, when the Hope postmaster retired. A non-career officer-in-charge (OIC) was installed to operate the office. *Id.* at 6. Retail transactions average eight transactions daily (7 minutes of retail workload). *Id.* at 2. Post office receipts for the last 3 years were \$32,121 in FY 2008; \$47,344 in FY 2009; and \$23,599 in FY 2010. There was one permit or postage meter

⁶ The Administrative Record is attached to the United States Postal Service Notice of Filing, January 12, 2012 (Administrative Record). The Administrative Record includes, as Item No. 47, the Final Determination to Close the Hope, Minnesota Post Office and Establish Service by Rural Route Service (Final Determination).

⁷ United States Postal Service Comments Regarding Appeal February 23, 2012, (Postal Service Comments). On February 23, the Postal Service filed a Motion for Late Acceptance of Comments Regarding Appeal. The motion is granted.

⁸ Participant Statement received from Doris Krause, February 6, 2012 (Krause Participant Statement); Participant Statement received from Ed Nelson, February 6, 2012 (Nelson Participant Statement).

⁹ Reply Comments of the Public Representative in Support of Petitioners' Appeal, March 6, 2012 (PR Comments). On March 1, 2012, due to the initial Public Representative leaving employment at the Commission, the Commission designated a substitute Public Representative. See Order No. 1268, Notice and Order Designating Substitute Public Representative, March 1, 2012.

customer. By closing this office, the Postal Service anticipates savings of \$21,390 annually. *Id.* at 6.

After the closure, retail services will be provided by the Ellendale post office located approximately 8 miles away.¹⁰ Delivery service will be provided by rural route service through the Ellendale post office. The Ellendale post office is an EAS-16 level office, with retail hours of 8:00 a.m. to 11:30 a.m., and 1:00 p.m. to 4:15 p.m., Monday through Friday, and 8:30 a.m. to 9:30 a.m. on Saturday. One hundred forty-five post office boxes are available. *Id.* The Postal Service will continue to use the Hope name. *Id.* at 5, Concern No. 18.

IV. PARTICIPANT PLEADINGS

Petitioners. Petitioners oppose the closure of the Hope post office. Petitioners contend that the post office plays an important role in the Hope community. See, e.g., Dahle Petition at 1; Wilka Petition at 1; D. Krause Petition at 1. Petitioner Dahle asserts that it would be a shame to lose such a unique postmark. Dahle Petition at 1. Petitioners contend that it will be an inconvenience to travel to the Ellendale post office to obtain retail services. See, e.g., Krause Letter at 1; Wilka Petition at 3. Petitioners assert that rural route service will not provide them with many of the postal services they now receive. *Id.* Petitioners question the Postal Service's calculation of economic savings, as the OIC does not receive a postmaster salary or benefits. *Id.* at 1; Nelson Participant Statement at 2.

Postal Service. The Postal Service argues that the Commission should affirm its determination to close the Hope post office. Postal Service Comments at 2. The Postal Service believes the appeal raises three main issues: (1) the effect on postal services; (2) the impact on the Hope community; and (3) the economic savings expected to result from discontinuing the Hope post office. *Id.* The Postal Service asserts that it has given

¹⁰ *Id.* at 2. MapQuest estimates the driving distance between the Hope and Ellendale post offices to be approximately 8.8 miles (10 minutes driving time).

these and other statutory issues serious consideration and concludes that the determination to discontinue the Hope post office should be affirmed. *Id.*

The Postal Service explains that its decision to close the Hope post office was based on several factors, including:

- the postmaster vacancy;
- a minimal workload and low office revenue;
- a variety of other delivery and retail options (including the convenience of rural delivery and retail service);
- minimal impact on the community; and
- expected financial savings.

Id. at 7. The Postal Service contends that it will continue to provide regular and effective postal services to the Hope community when the Final Determination is implemented. *Id.*

The Postal Service also asserts that it has followed all statutorily required procedures and has addressed the concerns raised by Petitioners regarding the effect on postal services, the effect on the Hope community, economic savings, and the effect on postal employees. *Id.* at 19.

Public Representative. The Public Representative recommends that the Final Determination to close the Hope post office be remanded. PR Comments at 1. The Public Representative asserts that the Postal Service does not address the detriment to local businesses in any substantive manner. *Id.* at 2. She contends that the Postal Service relied on incomplete and inaccurate data regarding community growth. *Id.* at 3. She states that the Postal service failed to address Petitioner Wlika's statement that there had been a moratorium on building in Hope due to an inadequate sewer system, that has now been lifted after a new sewer was installed. *Id.* The Public Representative states that the Postal Service's calculation of economic savings is inaccurate, as the Hope post office does not have a postmaster and the non-career PMR earns a lower salary and no benefits. *Id.* at 3-4.

V. COMMISSION ANALYSIS

The Commission's authority to review post office closings is provided by 39 U.S.C. § 404(d)(5). That section requires the Commission to review the Postal Service's determination to close or consolidate a post office on the basis of the record that was before the Postal Service. The Commission is empowered by section 404(d)(5) to set aside any determination, findings, and conclusions that it finds to be (a) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law; (b) without observance of procedure required by law; or (c) unsupported by substantial evidence in the record. Should the Commission set aside any such determination, findings, or conclusions, it may remand the entire matter to the Postal Service for further consideration. Section 404(d)(5) does not, however, authorize the Commission to modify the Postal Service's determination by substituting its judgment for that of the Postal Service.

A. Notice to Customers

Section 404(d)(1) requires that, prior to making a determination to close any post office, the Postal Service must provide notice of its intent to close. Notice must be given 60 days before the proposed closure date to ensure that patrons have an opportunity to present their views regarding the closing. The Postal Service may not take any action to close a post office until 60 days after its determination is made available to persons served by that post office. 39 U.S.C. § 404(d)(4). A decision to close a post office may be appealed within 30 days after the determination is made available to persons served by the post office. *Id.* § 404(d)(5).

The record indicates the Postal Service took the following steps in providing notice of its intent to close. On June 14, 2011, the Postal Service distributed questionnaires to customers regarding the possible change in service at the Hope post office. Final Determination at 2. A total of 62 questionnaires were distributed to delivery customers. Other questionnaires were made available at the retail counter. A total of 33 questionnaires were returned. On June 29, 2011, the Postal Service held a

community meeting at Hope Community Center to address customer concerns. Twenty-eight customers attended. *Id.*

The Postal Service posted the proposal to close the Hope post office with an invitation for comments at the Hope and Ellendale post offices from July 13, 2011 through September 13, 2011. *Id.* The Final Determination was posted at the same two post offices from December 6, 2011 through January 7, 2012. Administrative Record, Item No. 49.

The Postal Service has satisfied the notice requirements of 39 U.S.C. § 404(d).

B. Other Statutory Considerations

In making a determination on whether or not to close a post office, the Postal Service must consider the following factors: the effect on the community; the effect on postal employees; whether a maximum degree of effective and regular postal service will be provided; and the economic savings to the Postal Service. 39 U.S.C. § 404(d)(2)(A).

Effect on the community. Hope, Minnesota is an unincorporated community located in Steele County, Minnesota. Administrative Record, Item No. 16. The community is administered politically by the County and Township Boards. Police protection is provided by the Steele County Sheriff's Department. Fire protection is provided by the Owatonna and Ellendale Fire Departments. The community is comprised of farmers, retirees and those who work in local businesses or commute to work in nearby communities. *Id.* Residents may travel to nearby communities for other supplies and services. *See generally* Administrative Record, Item No. 22 (returned customer questionnaires and Postal Service response letters).

As a general matter, the Postal Service solicits input from the community by distributing questionnaires to customers and holding a community meeting. The Postal Service met with members of the Hope community and solicited input from the community with questionnaires. In response to the Postal Service's proposal to close the Hope post office, customers raised concerns regarding the effect of the closure on

the community. Their concerns and the Postal Service's responses are summarized in the Final Determination. Final Determination at 6.

Petitioners contend that closing the post office would have a detrimental effect on the Hope community. See Dahle Petition at 1; Wilka Petition at 1; D. Krause Petition at 1. The Postal Service responds that a community's identity derives from the interest and vitality of its residents, and that residents will continue to use the Hope name after the post office closes. Postal Service Comments at 14 -15.

The Public Representative contends that the Postal Service has failed to consider the effect of the closing on local businesses. PR Comments at 2. She also contends that the Postal Service relied on incorrect data for its estimation of community growth. *Id.* at 3.

The potential adverse impacts on businesses referred to by the Public Representative were raised by Petitioners Krause and Wilka. *Id.* at 2. However, a review of the Administrative Record fails to reveal any evidence that these particular concerns were presented to the Postal Service during the discontinuance proceedings. See, e.g. Administrative Record, Item No. 22 at .pdf pages 73-75; Item No. 38 at 3A. Similarly, the information presented by Petitioner Wilka regarding the installation of a new sewer system and the additional growth which the community hopes will materialize does not appear to have been presented during the discontinuance proceedings. Without evidence that the Postal Service was presented with such information during the administrative proceedings, its failure to address the implications of such information cannot be used as grounds for remand.

The Postal Service has adequately considered the effect of the post office closing on the community as required by 39 U.S.C. § 404(d)(2)(A)(i).

Effect on employees. The Postal Service states that the Hope postmaster retired on November 1, 1996, and that an OIC has operated the Hope post office since then. Final Determination at 6. It asserts that after the Final Determination is implemented, the temporary OIC will either be reassigned or separated and that no other Postal Service employee will be adversely affected. *Id.*; Administrative Record, Item No. 15.

The Postal Service has considered the possible effects of the post office closing on the OIC and has satisfied its obligation to consider the effect of the closing on employees at the Hope post office as required by 39 U.S.C. § 404(d)(2)(A)(ii).

Effective and regular service. The Postal Service contends that it has considered the effect the closing will have on postal services provided to Hope customers. Postal Service Comments at 7-8. It asserts that customers of the closed Hope post office may obtain retail services at the Ellendale post office located 8 miles away. Final Determination at 2. Delivery service will be provided by rural route service through the Ellendale post office. *Id.* The Hope post office box customers may obtain Post Office Box service at the Ellendale post office, which has 145 boxes available. *Id.*

For customers choosing not to travel to the Ellendale post office, the Postal Service explains that retail services will be available from the carrier. Postal Service Comments at 9. The Postal Service adds that it is not necessary to meet the carrier for service since most transactions do not require meeting the carrier at the mailbox. *Id.*

Petitioners contend that it will be an inconvenience to travel to the Ellendale post office to obtain retail services. See, e.g., Krause Letter at 1; Wilka Petition at 3. They further contend that rural route service will not provide Hope residents with regular and effective postal services. Wilka Petition at 3. The Postal Service, citing specific portions of the record, asserts that concerns expressed by customers were considered and addressed during the discontinuance study and that rural route service will provide Hope residents with regular and effective postal services. Postal Service Comments at 9-13 (issues regarding: alleged problems with obtaining service from rural carriers; mail security; effect on seniors; regularity of delivery hours; rudeness of employees at the proposed replacement post office; and costs of installing and maintaining a mail box).

The Postal Service has considered the issues raised by customers concerning effective and regular service as required by 39 U.S.C. § 404(d)(2)(A)(iii).

Economic savings. The Postal Service estimates total annual savings of \$21,390. Final Determination at 6. It derives this figure by summing the following

costs: postmaster salary and benefits (\$26,213) and annual lease costs (\$3,000), minus the cost of replacement service (\$7,823). *Id.*

Petitioners question the Postal Service's calculation of economic savings, noting that the OIC does not currently receive benefits. *See, e.g., id.* at 1; Nelson Participant Statement at 2. The Postal Service responds that while the economic savings may seem small, such savings can make a difference when added together. Postal Service Comments at 17. The Postal Service states that its estimates are supported by record evidence and are in accordance with applicable statutory obligations. *Id.* at 18.

The Public Representative contends that the Postal Service's calculation of economic savings is inaccurate, as the Hope post office does not currently employ a postmaster, but a non-career PMR. PR Comments at 3-4.

The Hope post office postmaster retired on November 1, 1996. Final Determination at 2. The post office has since been staffed by a non-career OIC who, upon discontinuance of the post office, will be utilized in other area offices as needed and may be separated from the Postal Service. The postmaster position and the corresponding salary will be eliminated. *See, e.g.,* Docket No. A2011-67, United States Postal Service Comments Regarding Appeal, October 24, 2011, at 13; Docket No. A2011-68, United States Postal Service Comments Regarding Appeal, November 2, 2011, at 10. Furthermore, notwithstanding that the Hope post office has been staffed by an OIC for approximately 15 years, even if a lower OIC salary was used in the Postal Service's calculation, the Postal Service would have satisfied the requirements of section 404(d)(2)(A)(iv).

The Postal Service has satisfied the requirement that it consider economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

VI. CONCLUSION

The Postal Service has adequately considered the requirements of 39 U.S.C. § 404(d). Accordingly, the Postal Service's determination to close the Hope post office is affirmed.¹¹

It is ordered:

The Postal Service's determination to close the Hope, Minnesota post office is affirmed.

By the Commission.

Shoshana M. Grove
Secretary

¹¹ See footnote 4, *supra*.

DISSENTING OPINION OF CHAIRMAN GOLDWAY

The Administrative Record is inaccurate with regard to economic savings. As such, the Postal Service has not adequately considered economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv).

The Postal Service argues that savings should be calculated based on a full-time postmaster's salary. Yet the Hope post office has been operated by a non-career officer-in-charge (OIC) since the former postmaster retired on November 1, 1996. On the one hand, the Postal Service argues that the effect on employees of this closing will be minimal because only a non-career OIC will be eliminated; yet on the other hand, it argues that the savings should be calculated using a full-time postmaster position.

A non-career OIC has been in place for more than 15 years. Given this extended period of time, and the Postal Service's current financial difficulties, it is clear that the Postal Service has no obligation to maintain a full-time postmaster in small facilities such as Hope, Minnesota. Upon closure of the facility, the Postal Service may, at most, avoid continuing to pay the OIC level salary.

The Postal Service already claims billions of dollars in savings from reducing labor costs. I believe the savings from substituting OICs in postmaster positions throughout the nation have already been included in those billions. There are inherent and blatant contradictions in the Administrative Record that must be corrected on remand.

It is not the statutory responsibility of the Commission to correct the Administrative Record for the Postal Service and certainly not to make its own surmise about what and/or whether there would be savings if accurate data were in the Administrative Record. Therefore, the decision to close should be remanded to the Postal Service to correct the Administrative Record and present a more considered evaluation of potential savings.

Moreover, the Postal Service recently announced a moratorium on post office closings. It is confusing and perhaps unfair to require some citizens whose post offices have received a discontinuance notice as of December 12, 2011 to gather evidence and pursue an appeal to the Commission, while others whose post offices were in the review process, but had not yet received a discontinuance notice by December 12, 2011, have the respite of a 5-month moratorium and the opportunity to have further consideration of alternatives by the Postal Service.

The citizens of Hope, Minnesota and their concerns regarding the loss of a neighborhood post office should be afforded the same opportunity to be heard and considered as the citizens of the approximately 3,700 post offices fully covered by the moratorium.

Ruth Y. Goldway

DISSENTING OPINION OF VICE CHAIRMAN LANGLEY

The Postal Service did not adequately consider the economic savings as required by 39 U.S.C. § 404(d)(2)(A)(iv). The Postal Service should take into consideration that a non-career postmaster relief (PMR) has been in charge of this facility for more than 15 years, since November 1996, not an EAS-55 postmaster, and reflect the PMR's salary and benefits in its cost savings analysis.

In addition, the Administrative Record indicates that there is one postage meter customer. Final Determination at 2. According to the Postal Service, the Final Determination reflects only retail window transactions, which does not include revenue from permit/postage meter customers.¹ It is important for the Postal Service to accurately reflect the total operating revenue, which includes all business activities, at each post office, to determine the potential impact on the community it serves. As a government entity, the Postal Service should ensure that its cost/benefit analysis accurately identifies capturable cost savings and does not overstate savings.

I find that the Administrative Record evidence does not support the Postal Service's decision to discontinue operations at the Hope post office and should be remanded.

Nanci E. Langley

¹ See Docket No. A2012-78, Postal Service Comments at 10-11 n.24.